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SUBJECT: MOLSS Seeks More Inspectors, Training to Improve
Labor Law Enforcement

Sensitive But Unclassified; Handle Accordingly

¶1. (SBU) Summary: The Director of the Inspection Division of the Ministry of Labor and Social Security's Legal Affairs Department is aware of and trying to remedy the problem of too few labor inspectors in China; his goal is to double the total number of inspectors so that each inspector is responsible for 8-10,000 workers. MOLSS has petitioned the State Commission on Personnel Service Structure and Establishment Administration for additional personnel at the national level, but China's political system will require provinces, cities and other lower level units wishing to add inspectors to do the same. MOLSS, through the Labor Rule of Law Project with the U.S. Department of Labor, anticipates completing and beginning to use training materials for inspectors this year. While it is undeniable that there are underage workers in China, China is doing very well in preventing this problem, the Director claimed. While it is heartening that MOLSS is attempting both to increase the number of labor inspectors and to find ways to help them organize so as to better do their jobs, it is clear that this will not be an easy task. In addition, this Director's remarks show how much anticipated, and how much needed, are the materials for training inspectors produced by the U.S.-funded Labor Rule of Law Project. End Summary.

¶2. (U) Laboff, Labor Intern and Labor Assistant met with Li Yansong, Vice Director, Inspection Division, Legal Affairs Bureau, Ministry of Labor and Social Security (MOLSS) to discuss the Inspection Division's plans for improving workplace inspections. China's labor inspection system was established in 1994 following passage in that year of the Labor Law, Director Li said. Currently MOLSS is working to expand the size of the inspection force, and to improve methods of inspections so as to better enforce the law.

MOLSS Conducts Annual and Special Inspections

13. (U) The Inspections Division conducts regular and special inspections; special inspections are conducted jointly with other ministries and organizations. For example, for three consecutive years, the inspectorate has conducted, with the Ministry of Construction and the All-China Federation of Trade Unions, special inspections of wage payments to migrants at the end of the year, and this inspection may be continued on an annual basis. This year, MOLSS conducted, with the Public Security Bureau and ministry of Commerce (MOFCOM), a special inspection following Spring Festival to eliminate illegal employment agencies who cheat migrant workers. Currently, a special one month campaign is being conducted to assure that labor contracts are being signed, that wage and hour regulations are being followed, and that underage workers are not being employed. In the months of July and August, another special inspection will be conducted to assure employer compliance with protections in the law for women and underage workers. The Inspection Division also pushes the local Labor and Social Security Bureaus (LSSBs) to strengthen their inspection goals.

MOLSS Trying to Remedy Inspector Shortage

14. (U) MOLSS knows that the Inspection Divisions throughout the country are shorthanded, Director Li said. Therefore, MOLSS is trying hard to increase the number of inspectors so that each inspector is responsible for 8-10,000 workers; to do this would require approximately twice the current number of inspectors. MOLSS has asked

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the State Commission of Personnel Service Structure and Establishment Administration (Bianzhi, an organization under the authority of the State Council which administers the size and internal structures of government bodies) to increase the number of administrative personnel assigned to the Inspection Division. MOLSS has asked the ACFTU and Women's Federation to support its request to the Commission. However, because China's administrative system devolves responsibility for inspections to the provincial and municipal levels of government, each level has to deal individually with the problem of expanding the workforce. In addition, China's policy of reducing the size of government will pose many practical obstacles to increasing the numbers of inspectors.

Guangzhou Tianzhe Inspection System Could Be Model

15. (U) In southern China, there is one inspector for each 40-50,000 workers, which makes it very difficult to assure adequate inspections, Director Li said. However, the Tianzhe district of Guangzhou has developed what he considers to be the best system of inspections. Tianzhe has established four inspection teams composed of full time professional inspectors. Their work is assisted by part time inspectors, also from the LSSB. Legal Affairs Supervisors, drawn from the All-China Federation of Trade Unions and from the Women's Federation, and Workplace Inspection Coordinators, a group of laid-off workers hired with reemployment funds and trained in the inspection process, are empowered to warn companies about violations of the law, and to report these violations to higher authorities if the company does not remedy the violation.

16. (U) In the Guangzhou system, each full time inspector is assigned responsibility for one level of government. Inspectors have access to a computer, which links them to a network established by the Guangzhou LSSB. The network contains records of companies' violations and other information. In Director Li's view, the Tianzhe model has

been effective. However, it is s than many foreign models, Mr. Li said. However, it is very expensive to establish and to maintain, and as a result, would be hard to establish nationwide, he noted.

Training System for Inspectors in Development

¶17. (U) In order to improve the inspectors' professional skills, MOLSS, with the help of the U.S. Department of Labor in the Labor Rule of Law Project, is preparing materials for training inspectors. Drafting of the materials will be finished by September, and approved by the end of 2006. Some pilot programs may be conducted throughout the country this year as well. In addition, MOLSS will establish two networks, the first an information technology network, and the second a geographic network pursuant to which each inspector will take charge of a zone or region.

Enforcing the Requirement for Labor Contracts

¶18. (U) Employers are required by law to sign a labor contract with every employee. Jurisdiction over labor contracts within MOLSS does not reside with the Inspection Division, but rather with the Labor Relations Division. Moreover, not every locality has a requirement that a contract be verified by the labor agency, the Director said.

¶19. (U) MOLSS is currently engaged in a campaign to assure

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that employers sign contracts for all their employees within three years. The Inspection Division is involved in this campaign but the Labor Relations Division is in charge. The Labor Contract Law which has been drafted and will be passed before the end of 2006 will provide increased protections for workers.

Child Labor Allegations Rigorously Investigated

¶10. (U) Employers are responsible for obtaining the identification card of all workers employed in their company, and for verifying the card's validity, Director Li said. If an individual applying for a position has no card, then it is the obligation of the employer to contact the Public Security Bureau from the individual's home town in order to verify the individual's age. These obligations fall exclusively on the employer.

¶11. (U) The Inspection Division inspects employers who are alleged to be employing child workers upon receipt of a report or complaint, regularly on its own initiative, and during special inspections. These inspections have been conducted for many years and inspectors are very persistent, Director Li indicated. Many investigations are conducted jointly with the ACFTU and Women's Federation. All LSS Bureaus are aware that this is a hot button issue, and that they are to tolerate no violations of the policy, he said. Child labor is a preoccupation for inspectors who are constantly be on the alert for children working, Director Li said. Whenever he enters a hotel or a restaurant, he immediately scans the faces of workers to see if there are any that appear to be too young.

¶12. (U) It is undeniable that there are underage workers in China, Director Li said. However, as a systematic matter, it is clear that China is doing well in attacking this problem, and, according to the Director, this is the assessment of the International Labor Organization as well. A map he viewed in Holland showed China's rating in this regard to be the same as the United States and European countries, the Director said. China's traditions of

history, culture and especially of valuing education all militate against child labor.

¶13. (U) China's laws and regulations also strongly condemn child labor. In 2003, the State Council issued a document that established severe punitive measures for employers found violating prohibitions against child labor. The document requires a fine of 5,000 rmb. (more than USD 600 at the current exchange rate) per month per child found working. The criminal law also contains a provision stating that an employer who threatens the life of a child worker will be held to be criminally responsible. Last year, when he visited California as part of the Labor Rule of Law program, he was told that California authorities also considered this fine to be a severe punishment for such a violation. Nonetheless, he stated, some enterprise managers lack awareness, and compulsory education is not as complete as desired.

¶14. (U) In his personal view, Director Li said, China should make some changes in its laws. He has looked at the U.S. law, and believes that it is clearer than Chinese law as to when a young person may work, and under what circumstances, such as vacations from school, holidays, etc. China has not created sufficient legal working opportunities for young people; these legal opportunities could be good opportunities for their growth and development.

¶15. (SBU) Comment: While it is heartening that MOLSS is
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attempting both to increase the number of labor inspectors and to find ways to help them organize so as to better do their jobs, it is clear that this will not be an easy task. In addition, this Director's remarks show how much anticipated, and how much needed, are the materials for training inspectors produced by the U.S.-funded Labor Rule of Law Project.

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